

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

IN RE: DANIEL P. SLOAN

CASE NO. 10-51022-NPO

DEBTOR

CHAPTER 11

---

AMJAD F. NAJJAR

PLAINTIFF

VS.

ADVERSARY NO. \_\_\_\_\_

DANIEL P. SLOAN

DEFENDANT

**ADVERSARY COMPLAINT**

Plaintiff, Amjad J. Najjar, is a creditor and party in interest in Bankruptcy Case No. 10-51022-NPO, and in support of this Adversary Complaint against Daniel P. Sloan (“Debtor” or “Defendant”) states the following:

**JURISDICTIONAL ALLEGATIONS**

1. This complaint initiates an adversary proceeding within this Court’s jurisdiction brought pursuant to 28 U.S.C. § 157 (a), (b) (1) and (2) (I) and Rule 7001 (6) and (9) of the Federal Rules of Bankruptcy Procedure, and pursuant to 28 U.S.C. § 2201 and FED.R.CIV.P. 57, which seeks a determination of the nondischargeability of particular debts pursuant to 11 U.S.C. §523. Defendant is an individual debtor under Chapter 7 who has filed a petition for relief in this Court. Venue is proper in this Court pursuant to 28 U.S.C. §1409 and this Court has jurisdiction

of this matter as a proceeding arising under title 11 and as a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A), and (I).

2. Debtor filed his Petition seeking relief under Chapter 7 of the Bankruptcy Code, and Plaintiff anticipates that in the course of these proceedings he will seek discharge of particular debts owed by Debtor to the Plaintiff.

3. Plaintiff Amjad F. Najjar is a Texas resident who holds unliquidated and disputed claims against Daniel P. Sloan for money owed as the result of Mr. Sloan's receipt of loan proceeds from Plaintiff through fraud.

4. Debtor is a legally competent adult who has filed a Chapter 7 proceeding within the jurisdiction of this Court listing a Mississippi address, but who now resides in the state of Alabama and who may be personally served with process, pursuant to the laws of the States of Mississippi or Alabama, where he may be found or otherwise pursuant to Rule 4 of the Federal Rules of Civil Procedure by being hand-delivered a copy of the Complaint together with a Summons within 120 days of the date of the filing of the Adversary Complaint by a person who is not a party and who is at least 18 years of age, if service of process is not waived. The last known residence address of Debtor is 356 Cotton Bay Lane, Gulf Shores, Alabama 360452.

### **GENERAL ALLEGATIONS**

5. Plaintiff Amjad F. Najjar filed a Complaint against the Debtor and other parties in the 133<sup>rd</sup> District Court of Harris County, Texas ("Texas Case"). A copy of Plaintiff's Tenth Amended Original Petition and Plaintiff's First Supplemental Petition to his Tenth Amended Original Petition is attached hereto as Composite Exhibit "1." The Texas Case pleadings attached as Exhibit "1" set forth the claims of Amjad F. Najjar asserting that Debtor, along with others, committed fraud in obtaining loans for various entities in which Debtor claimed to be a

partner. The claims further assert that Debtor fraudulently obtained and used the funds for his personal use and that Debtor has failed to repay the loans of Plaintiff.

6. Plaintiff's claims against Debtor set forth in the Texas Case and Exhibit "1" should be judicially determined to be exceptions to any discharge granted to the Debtor under 11 U.S.C. § 727 or any other provision of the Bankruptcy Code pursuant to 11 U.S.C. § 523 (a)(2) [for money, property, services, or an extension, renewal, or refinancing of credit to the extent obtained by false pretenses, a false representation, or actual fraud, other than a statement respecting the debtor's or an insider's financial condition] and 11 U.S.C. § 523 (a)(4) [for fraud or defalcation while acting in a fiduciary capacity, embezzlement, or larceny].

7. The claims of Plaintiff in the Texas Case and pleadings attached as Exhibit "1" have been previously adjudicated to be non-dischargeable under 11 U.S.C. § 523(a)(4) against another defendant in the Texas Case, Amnon Luftak, by the United States Bankruptcy Court for the Southern District of Texas. *Najjar v. Luftak*, Adv. No. 07-3352; *In re Luftak*, Bankruptcy Case No. 07-33425-H5-7. A copy of the Final Judgment in the Luftak case is attached hereto as Exhibit "2."

8. Plaintiff seeks a declaratory judgment that the sums owed by the Debtor to Plaintiff and claimed in the Texas Case and pleadings attached hereto as Exhibit "1" are nondischargeable under 11 U.S.C. § 523 (a)(2) and/or 11 U.S.C. § 523 (a)(4), and Plaintiff seeks costs of court in this matter.

WHEREFORE, Plaintiff prays that upon a hearing, this Honorable Court will issue an order and judgment granting the following relief:

(1) A declaratory judgment declaring the indebtedness owed by Defendant to Plaintiff is nondischargeable pursuant to 11 U.S.C. § 523(a)(2) and/or 11 U.S.C. § 523 (a)(4);

- (2) An award of all costs of court in this matter; and
- (3) All other relief as to which this Court deems Plaintiff to be entitled to recover in the premises set forth above.

Respectfully submitted this the 16<sup>th</sup> day of August, 2010.

Respectfully submitted,

AMJAD F. NAJJAR

By: /s/ B. Lyle Robinson

James W. O'Mara, MS Bar No. 3929  
James W. Craig, MS Bar No. 7798  
B. Lyle Robinson, MS Bar No. 10015  
**PHELPS DUNBAR LLP**  
111 East Capitol, Suite 600  
Jackson, Mississippi 39201  
Post Office Box 23066  
Jackson, Mississippi 39225-3066  
Telephone: (601) 352-2300  
Facsimile: (601) 360-9777  
[www.phelpsdunbar.com](http://www.phelpsdunbar.com)

**ATTORNEYS FOR  
AMJAD F. NAJJAR**

**CERTIFICATE OF SERVICE**

I do hereby certify that the foregoing pleading was filed electronically through the Court's ECF system and that the same was served electronically on all parties enlisted to receive service electronically and separately served by email to the following:

David L. Lord  
2300 24<sup>th</sup> Avenue  
Gulfport, MS 39501  
[lordlawfirm@bellsouth.net](mailto:lordlawfirm@bellsouth.net)

Office of the U.S. Trustee  
A.H. McCoy Federal Building, Suite 706  
100 W. Capitol Street  
Jackson, MS 39269  
[USTPRegion05.AB.ECF@usdoj.gov](mailto:USTPRegion05.AB.ECF@usdoj.gov)

Ronald H. McAlpin, Esq.  
Trial Attorney, Office of the U.S. Trustee  
A. H. McCoy Federal Building, Suite 706  
100 W. Capitol Street  
Jackson, MS 39269  
[Ronald.McAlpin@usdoj.gov](mailto:Ronald.McAlpin@usdoj.gov)

Derek A. Henderson  
111 E. Capitol St.  
Suite 455  
Jackson, MS 39201  
[d\\_henderson@bellsouth.net](mailto:d_henderson@bellsouth.net)

and by U.S. Mail, postage prepaid to the following:

Daniel P. Sloan  
356 Cotton Bay Lane  
Gulf Shores, AL 39642

SO CERTIFIED, this the 16<sup>th</sup> day of August, 2010.

/s/ B. Lyle Robinson  
B. Lyle Robinson